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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

| | | |
|---------------------------------|---|-----------------------|
| IN THE MATTER OF THE SUSPENSION | : | Administrative Action |
| OR REVOCATION OF THE LICENSE OF | : | |
| | : | |
| | : | CONSENT ORDER |
| | : | |
| JONATHAN M. FRIEDMAN, D.D.S. | : | |
| | : | |
| TO PRACTICE IN THE DENTISTRY | : | |
| STATE OF NEW JERSEY | : | |
| | : | |

This matter was opened to the State Board of Dentistry ("Board") upon receipt of information from the Enforcement Bureau, Division of Consumer Affairs concerning allegations that respondent prescribed, purchased under fictitious and actual patient names, and personally used certain Controlled Dangerous Substances (CDS) for purposes unrelated to the practice of dentistry; that respondent took certain CDS out of the dental office supply, placed orders for certain CDS with a pharmaceutical wholesale vendor who formerly serviced his dental office, and personally used certain CDS for purposes unrelated to the practice of dentistry. All of the foregoing conduct

constitute violations of N.J.S.A. 45:1-21 and 45:1-13. The Board thoroughly reviewed the record in this matter including the Enforcement Bureau report and supporting documentation, the report of the substance abuse evaluation by Dr. Frederick Rotgers and the report of the psychological examination by Dr. Frank Dyer.

Respondent being desirous of resolving this matter without recourse to formal proceedings and for good cause shown;

IT IS ON THIS 8 DAY OF ^{DECEMBER} ~~NOVEMBER~~, 1993,

HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice dentistry in the State of New Jersey shall be and hereby is suspended for a period of five (5) years commencing ^{twenty 20} ~~thirty (30)~~ days from the entry date of this Order. Sixty (60) days shall be active suspension and shall commence twenty (20) days from the entry date of this Order. The remaining period of suspension shall be stayed and shall constitute a probationary period so long as respondent complies with all the other terms of the within Order.

(a) Respondent may practice dentistry during the probationary period under the direct supervision of a New Jersey licensed dentist. Direct supervision shall mean that the supervising dentist shall be physically present at all times while respondent is performing dental procedures. Respondent shall inform the supervising dentist of his prior drug abuse problem. Respondent shall provide to the Board the name and address of the supervising dentist, and he shall cause the

supervising dentist to submit quarterly reports to the Board confirming that he or she has been advised of respondent's prior addiction problems and evaluating respondent's competence and performance. Respondent may practice under the supervision of his partner or another licensed dentist.

2. Respondent shall continue enrollment in the New Jersey Dental Association Chemical Dependency Program (C.D.P.) and shall comply with a monitoring program supervised by C.D.P. which shall include, at a minimum, the following conditions:

(a) Respondent shall have his urine monitored under the supervision of the C.D.P. on a random, unannounced basis, twice weekly. During the sixty (60) day suspension period, respondent must have sixteen (16) clean urine samples before he can return to the practice of dentistry.

The urine monitoring shall be conducted with direct witnessing of the taking of the samples either from a volunteer or drug clinic staff as arranged and designated by the C.D.P. The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge. The C.D.P. shall be responsible to assure that all urine samples are handled by a laboratory competent to provide these services.

All test results shall be provided in the first instance directly to the C.D.P., and any positive result shall be reported immediately by the C.D.P. to Agnes Clarke, Executive Director of the Board, or her designee in the event she is

unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

Any failure by the respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event the respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Dr. Frederick Rotgers or Dr. Barbara McCrady of the C.D.P. Neither the volunteer nor drug clinic staff shall be authorized to consent to waive a urine test. In addition, respondent must provide the C.D.P. with written substantiation of his inability to appear within two (2) days, e.g., a physician's report attesting that the respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of the respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day. The C.D.P. shall advise the Board of every instance where a request has been made to waive a urine test together with the Program's determination in each such case.

The Board may in its sole discretion modify the

frequency of testing or method of reporting during the monitoring period.

(b) Respondent shall attend support groups including the impaired professionals group and AA/NA at a frequency of no less than two (2) times per week. Respondent shall provide evidence of attendance at such groups directly to the C.D.P. on a form or in a manner as required by the Program. The C.D.P. shall advise the Board immediately in the event it receives information that respondent has discontinued attendance at any of the support groups.

3. The C.D.P. shall provide quarterly reports to the Board in regard to its monitoring of respondent's program as outlined herein including, but not limited to, the urine testing and the attendance at support groups. The Program shall attach to its quarterly reports any and all appropriate reports and/or documentation concerning any of the monitoring aspects of the within program.

4.(a) Respondent shall engage in weekly individual psychotherapy with a psychologist or a psychiatrist. Respondent shall cause the treating therapist to provide quarterly reports directly to the Board with respect to his attendance and progress in therapy. Respondent shall address issues relating to substance abuse and respondent's personality problems as identified in the report of Dr. Dyer. The treating therapist shall submit a progress and attendance report to the Board fifteen (15) days prior to the sixtieth (60) day of the

suspension period.

(b) Respondent shall continue to attend and participate in marriage counseling on a weekly basis.

5. Respondent shall not prescribe controlled dangerous substances nor shall he possess such substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than seven (7) days subsequent to the prescription in order to avoid any confusion which may be caused by a confirmed positive urine test as a result of such medication.

6. Respondent shall provide appropriate releases to any and all parties who are participating in the monitoring program as outlined herein as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner.

7. All costs associated with the monitoring program as outlined herein shall be paid directly by the respondent.

8. It is expressly understood and agreed that continued licensure with restrictions as ordered herein is contingent upon strict compliance with all of the aforementioned conditions. Upon the Board's receipt of any information indicating that any term of the within Order has been violated in

any manner whatsoever, including, but not limited to, a verbal report of a confirmed positive urine or any other evidence that respondent has used an addictive substance, a hearing shall be held on short notice before the Board or before its representative authorized to act on its behalf. The proofs at such a hearing shall be limited to evidence of the particular violation at issue. Any confirmed positive urine test shall be presumed valid, and respondent shall bear the burden of demonstrating its invalidity.

9. Respondent shall pay the costs of the investigation in this case in the amount of \$ 4,091.49. Said costs shall be payable by certified check or money order to the State of New Jersey, in three monthly payments. The first payment of \$1,363.83 shall be submitted to the Board of Dentistry, 124 Halsey Street, Newark, New Jersey 07102 within thirty (30) days of the entry date of this Order.

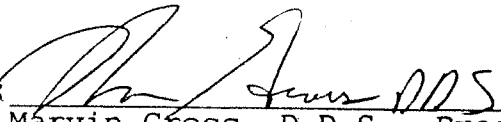
10. Respondent may apply for modification of the terms and conditions of the within Order no sooner than six (6) months from the entry date herein.

11. Respondent shall have the opportunity to personally appear before the Board with counsel on December 8, 1993 at 1 p.m. for the sole purpose of addressing the Board in mitigation of the disciplinary sactions set forth above. Respondent, however, agrees to be bound to the terms set forth in this Consent Order in the event that the Board does not reduce the period of suspension or modify any provision of the within

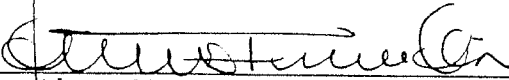
Order after hearing respondent's arguments.

STATE BOARD OF DENTISTRY

By:


Marvin Gross, D.D.S., President

I have read and understand the
within Order and agree to be
bound by its terms. Consent is hereby
given to the Board to enter this Order.


Jonathan M. Friedman, D.D.S.